

REMARKS

Claims 1-9 remain in this application. Claims 1-9 are subject to an election requirement.

The Office Action requires election of a species from the following: Species I, drawn to hydrogen introduction into solid metallic glasses by means of liquid-phase reaction; and Species II, drawn to hydrogen introduction into solid metallic glasses by means of gas-phase reaction.

The present application is a National Stage PCT Application filed under 35 USC §371. Accordingly, election of species is not required where a unity of invention exists among the claims. PCT Rules 13.1 and 13.2 are to be followed in making a unity of invention determination without regard to restriction practice in applications filed under 35 USC §111. Similar considerations apply to genus/species or combination/subcombination situations. MPEP §1850.

Applicants respectfully traverse the election of species requirement on the basis that PCT rules 13.1 and 13.2 are not being properly applied. MPEP §1850(II) states that "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed . . . If the

independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.” (Emphasis added)

The Examiner has not alleged that independent claim 1 fails to avoid the prior art. Claim 1 is the only independent claim currently pending, with all remaining claims depending therefrom. Therefore, all of the dependent claims (remaining claims 2-9) include the subject matter of claim 1, thereby satisfying the unity of invention requirement of PCT rule 3.1, since all these claims share necessarily common subject matter of claim 1.

Based on the foregoing, withdrawal of the election of species requirement is therefore respectfully requested.

Applicants hereby elect, for the purpose of being completely responsive to the Official Action, should the requirement be made final, Species I, drawn to hydrogen introduction into solid metallic glasses by means of liquid-phase reaction.

The Examiner indicates that claims 1-2 and 5-9 are generic. Applicant respectfully submits that claim 3 is also generic. Claims 1-3 and 5-9 are therefore considered by applicants to readable on the elected species.

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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